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*Attorneys for Plaintiffs*

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

**KELSEY CASCADIA ROSE JULIANA;**  
**XIUHTEZCATL TONATIUH M.,** through his  
Guardian Tamara Roske-Martinez; et al.,

Plaintiffs,

v.

**The UNITED STATES OF AMERICA;** et al.,

Defendants.

Case No.: 6:15-cv-01517-AA

**DECLARATION OF JULIA A. OLSON in  
Support of Plaintiffs' Opposition to  
Defendants' Motion for Entry of Judgment  
(ECF No. 516)**

**DECLARATION OF JULIA A. OLSON in Support of Plaintiffs' Opposition to  
Defendants' Motion for Entry of Judgment**

I, Julia A. Olson, hereby declare and if called upon would testify as follows:

1. I am an attorney of record in the above-entitled action. I make this Declaration in support of Plaintiffs' Opposition to Defendants' Motion for Entry of Judgment (ECF No. 516). I have personal knowledge of the facts stated herein, except as to those stated upon information and belief, and if called to testify, I would and could testify competently thereto.
2. On May 17, 2021, I was on a phone call with counsel for Defendants where I informed counsel of our request for non-profit organizational Plaintiff Earth Guardians to be dropped voluntarily as a named plaintiff and the parties conferred on this request. I stated that, for reasons having nothing to do with the Ninth Circuit opinion or the merits of this case, Earth Guardians would no longer remain a named plaintiff and would not join in the proposed Second Amended Complaint. On the call, I explained that Earth Guardians had been originally founded by the family of Plaintiff Xiuhtezcatl M. and prosecution of this action had always focused on and will continue to focus on the 21 individual Plaintiffs' claims, including Xiuhtezcatl as an individual plaintiff. I also stated the belief of counsel for Plaintiffs that Earth Guardians not proceeding as a named plaintiff did not affect or implicate any of the prior judicial decisions or prior legal arguments of the parties, and did not affect or implicate any of Plaintiffs' claims or Defendants' defenses going forward because both sides had always focused on the individual plaintiffs' claims and standing.
3. After the telephonic conferral, Plaintiffs circulated a proposed stipulation to that effect. *See* the May 17, 2021 email of Philip Gregory to Sean Duffy and Frank Singer attached as **Exhibit 1**.

4. On May 19, 2021, Sean Duffy responded to the request to drop Earth Guardians in an email, which stated, in relevant part: “First, regarding Plaintiffs’ proposed stipulation to drop Earth Guardians as a party, we do not agree that Rule 21 (which deals with misjoinder) is an appropriate vehicle to dismiss a party in this instance. Procedurally, dismissal of Earth Guardians should be accomplished by dismissal of all parties by the Court in compliance with the Ninth Circuit mandate. If Plaintiffs move to dismiss Earth Guardians, you can state that Defendants’ position is that while the United States agrees that dismissal of Earth Guardians is appropriate, procedurally it should be accomplished by the dismissal of all parties by the court in compliance with the Ninth Circuit mandate.” See email string in reverse chronological order attached hereto as **Exhibit 2**.
5. As Exhibit 2 shows, the parties continued to meet and confer about dropping Earth Guardians under Rule 21 over the rest of May, with Defendants consistently responding by refusing to agree to any stipulation except for a stipulation that dismissed the whole case as to all Plaintiffs.
6. Plaintiffs continually offered to modify the draft stipulation under Rule 21 to address any legitimate concerns about dropping Earth Guardians. *See* the June 3, 2021 email of Philip Gregory to Sean Duffy and Frank Singer attached as **Exhibit 3**.
7. The emails during May-June requesting a stipulation ceased on June 7, when counsel for Defendants wrote: “Defendants cannot join the proposed stipulation. If Plaintiffs seek to dismiss (or drop) a party, it should be by motion. And as we indicated below, our position is that dismissal should be accomplished by the dismissal of all parties by the Court in compliance with the Ninth Circuit mandate.” *See* the June 7, 2021 email of Sean Duffy attached as **Exhibit 4**.

8. During oral argument before this Court on June 25, I raised the issue of Earth Guardians dropping out as a plaintiff in the case. At that time, Defendants did not object to Earth Guardians leaving the case. After oral argument, we filed a supplement to our motion for leave to amend the complaint (ECF No. 514), which contained a proposed Second Amended Complaint that deleted all references to Earth Guardians as a plaintiff. Defendants did not respond to or object to this filing.
9. Thus, it came as a complete surprise to counsel for Plaintiffs when, on September 8, Defendants wrote they were planning to file “a short motion for entry of judgment against Plaintiff Earth Guardians.” Defendants went on to state: “We see the proposed motion as an administrative matter that should close the loop on this issue. Please let us know if Plaintiffs consent to the motion or if you would like to have a call to discuss this.” *See* the email string in reverse chronological order commencing on September 8, 2021, attached as **Exhibit 5**.
10. As Exhibit 5 shows, the next day, counsel for Plaintiffs responded by requesting a copy of the document Defendants intended to file. *See* Exhibit 5 (September 9, 2021 email from Philip Gregory). As the Exhibit 5 email string shows, Defendants refused to provide an advance copy of their brief motion, stating only: “our motion is a short motion seeking entry of judgment and dismissal against Earth Guardians under Fed. R. Civ. P. 54(b) and 58 based on its decision not to join Plaintiffs’ efforts to amend the complaint and the Ninth Circuit decision.”
11. The Exhibit 5 email string also shows that, later on September 9, Plaintiffs reiterated their request for a copy of the draft motion: “[Y]ou have previously requested copies of our proposed filings before taking a position on a motion and we have provided you with

those copies. For example, see your email of March 7, 2021 (‘In addition, prior to any conferral, we will need to see the proposed amendment to the complaint.’) If the matter is ‘a short motion’ and you have it ready to file, we see no reason why you cannot provide us with a copy in advance for our review and give us the opportunity to discuss any concerns in a telephone conference, as required under the local rules. Can you please provide us with a draft of the document you intend to file so we can review it as part of the conferral process? After you send the draft, we will then be prepared for a phone call tomorrow. There is absolutely no urgency to filing this motion today if it is truly ‘an administrative matter.’”

12. Rather than provide a copy of the draft motion, Exhibit 5 shows that at 2:42 p.m. Pacific on September 9, counsel for Defendants wrote: “If Plaintiff would like to confer on the motion, we are opening our conference line up at 5:45 so that we can confer.”

13. Yet, instead of waiting for the scheduled 5:45 conference call, on September 9, Defendants filed their Motion for Entry of Judgment against Earth Guardians at 3:21 p.m. Pacific. (ECF No. 516.)

14. Upon receiving the filed motion, counsel for Plaintiffs promptly emailed Defendants: “It is 4:20 pm right now. You wrote you were opening your conference line at 5:45, but instead you filed your motion minutes after sending your email about the conference line before we had a chance to talk internally and respond to your proposed time for a call, and without giving us a meaningful chance to confer. In doing so you grossly misrepresented our position to the court by saying: ‘Plaintiffs refused telephonic conferral unless the United States first provided a copy of the motion.’ We said we could have a phone call tomorrow, because we already have a pre-scheduled call this evening

and are not available today.” *See* Exhibit 5. In the same email counsel for Plaintiffs requested that Defendants “correct your statement to the court about our position and properly complete the conferral process, which might have avoided the need for this motion. We would like to confer tomorrow between 10-11:30 a.m. PT.” *See* Exhibit 5.

15. The next day, September 10, counsel for Defendants recognized they had mistakenly opened the conference line at the wrong time: “I ... apologize that I did not include the time zone for a proposed discussion yesterday. We meant to open up our line at 5:45 ET,” a mere three minutes after they sent their email to counsel for Plaintiffs without regard for our availability on such short notice. Counsel for Defendants did not await a response from counsel to set a mutually agreeable time to confer by telephone on this “administrative matter” that had no urgency whatsoever. Basing their position on the May 17 proposal by Plaintiffs “to stipulate to drop Earth Guardians from the lawsuit” pursuant to Rule 21, counsel for Defendants unilaterally determined a meet and confer was not “going to resolve the narrow question raised in the motion regarding the need for a judgment against Earth Guardians.” *See* Exhibit 5. In spite of the obvious inaccuracy of their certification, counsel for Defendants refused to withdraw their Motion in order to first confer pursuant to the Local Rules and refused to amend their certification.

16. Since the meet and confer process started after Defendants filed the instant motion, counsel for Plaintiffs have made several efforts to resolve this matter, requesting Defendants stipulate that, pursuant to Rule 21, Earth Guardians be voluntarily dropped as a plaintiff at its request. After the filing of the instant motion, the parties conferred by telephone for the first time on September 13 (four days after the motion was filed). *See* Exhibit 5.

17. During that call, Defendants offered to provide a stipulation the next day for removing Earth Guardians, which they did not send until September 16 because counsel had to wait for “higher ups” to review the stipulation of this “administrative housekeeping matter.” See the email string commencing on September 10, 2021, attached as **Exhibit 6**.
18. In their draft stipulation, Defendants offered to agree to dismiss Earth Guardians and to dismiss the claims brought by Earth Guardians “[p]ursuant to the Ninth Circuit’s March 5, 2021 mandate, ECF No. 461.” See Exhibit 6.
19. On September 17, counsel for Plaintiffs responded with a revised stipulation, simply dropping Earth Guardians as a plaintiff at its request and dismissing its claims without prejudice. See the September 17, 2021 email from Julia Olson to Sean Duffy and Frank Singer attached as **Exhibit 7**.
20. Despite several proposals on September 20, counsel for Defendants refused to agree to Plaintiffs’ revised stipulation: “We ... do not think Plaintiffs’ proposal to withdraw Earth Guardians accomplishes the same thing as the stipulation of dismissal that we proposed. If Plaintiffs do not agree to dismiss the claims brought by Earth Guardians, we think it makes sense for the parties to address the status of Earth Guardians through the pending motion for entry of judgment (ECF 516).” See the September 17-20, 2021 email string in reverse chronological order attached as **Exhibit 8**.
21. As counsel for Plaintiffs, I wish to emphasize that it is not legally or factually accurate to say that Earth Guardians is being dismissed because of the Ninth Circuit’s March 5, 2021 mandate. ECF No. 461. Earth Guardians is voluntarily dropping out as a plaintiff and not joining the Second Amended Complaint for reasons having nothing to do with the Ninth Circuit mandate.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on September 23, 2021.

Respectfully submitted,

/s/ Julia A. Olson \_\_\_\_\_  
Julia A. Olson



## Exhibit 1

**From:** Philip Gregory  
**Sent:** Monday, May 17, 2021 2:21 PM  
**To:** 'Duffy, Sean C. (ENRD)' <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>; Singer, Frank (ENRD) <[frank.singer@usdoj.gov](mailto:frank.singer@usdoj.gov)>  
**Cc:** Julia Olson <[julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org)>; Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>  
**Subject:** Confidential: 2021.05.17.Draft Stipulation EG Drop

Dear Sean,

Thanks for our call today.  
I have attached the draft stip and order dropping Earth Guardians.  
We would appreciate it if you could get back to us promptly on this.  
Thanks,

Phil

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*Attorneys for Defendants*

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

**KELSEY CASCADIA ROSE JULIANA;**  
**XIUHTEZCATL TONATIUH M.,** through his  
Guardian Tamara Roske-Martinez; et al.,

Plaintiffs,

v.

**The UNITED STATES OF AMERICA;** et al.,

Defendants.

Case No.: 6:15-cv-01517-AA

**JOINT STIPULATION TO DROP  
ORGANIZATIONAL PLAINTIFF  
EARTH GUARDIANS; [Proposed]  
ORDER**

**Pursuant to Fed. R. Civ. P. 21**

**STIPULATION TO DROP ORGANIZATIONAL PLAINTIFF; [Proposed] ORDER**

**6:15-cv-01517-AA**

Exhibit 1

1

2

### STIPULATION

WHEREAS, Plaintiffs and Defendants (collectively the “Parties”) have conferred and agreed upon this Joint Stipulation and [Proposed] Order;

WHEREAS, Plaintiffs requested Defendants stipulate that, pursuant to Federal Rule of Civil Procedure 21, plaintiff Earth Guardians, a 501(c)(3) non-profit organization, be dropped as a named plaintiff in the present action on the terms set forth herein and Defendants agreed to so stipulate;

WHEREAS, the remaining Plaintiffs will continue to prosecute their claims;

WHEREAS, the dropping of Earth Guardians as a named Plaintiff does not affect or implicate any of the prior judicial decisions or prior legal arguments of the Parties;

WHEREAS, the dropping of Earth Guardians as a named Plaintiff does not affect or implicate any of Plaintiffs’ claims going forward;

WHEREAS, the dropping of Earth Guardians as a named Plaintiff does not affect or implicate any of Defendants’ defenses going forward;

WHEREAS, this Court has the authority under Federal Rule of Civil Procedure 21 to “drop” a party from an action by court order “at any time, on just terms”;

THE PARTIES HEREBY JOINTLY STIPULATE AND AGREE THIS COURT SHOULD ISSUE AN ORDER THAT, pursuant to Federal Rule of Civil Procedure 21, Plaintiff EARTH GUARDIANS, a 501(c)(3) non-profit organization, is dropped from the present action as a named plaintiff effective immediately.

DATED this 17th day of May, 2021.

Respectfully submitted,

/s/ Julia A. Olson  
JULIA A. OLSON

*Attorney for Plaintiffs*

/s/ Sean C. Duffy  
SEAN C. DUFFY

*Attorney for Defendants*

**Attestation of Filing**

I hereby attest, pursuant to District of Oregon, Local Rule 11-1(b), that consent to the filing of this document has been obtained from each signatory hereto.

/s/ Julia A. Olson

Julia A. Olson

*Attorney for Plaintiffs*

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

**KELSEY CASCADIA ROSE JULIANA**; et al., Case No.: 6:15-cv-01517-AA

Plaintiffs,

[PROPOSED] **ORDER**

v.

**The UNITED STATES OF AMERICA**; et al.,

Defendants.

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The Court has reviewed the reasons offered in support of the JOINT STIPULATION TO DROP ORGANIZATIONAL PLAINTIFF EARTH GUARDIANS and finds there is good cause under Federal Rule of Civil Procedure 21 to drop Plaintiff EARTH GUARDIANS from this action.

THEREFORE, IT IS HEREBY ORDERED THAT, pursuant to Federal Rule of Civil Procedure 21, Plaintiff EARTH GUARDIANS, a 501(c)(3) non-profit organization, is dropped from the present action as a named Plaintiff effective immediately.

IT ALSO IS HEREBY ORDERED THAT the dropping of Plaintiff EARTH GUARDIANS as a named Plaintiff does not affect or implicate any of the prior judicial decisions or prior legal arguments of the Parties; any of Plaintiffs' claims going forward; and any of Defendants' defenses going forward.

DATED this \_\_\_\_ day of May, 2021.

---

ANN L. AIKEN  
United States District Judge

## Exhibit 2



**From:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>  
**Sent:** Friday, May 28, 2021 1:37 PM  
**To:** Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>; Julia Olson <[julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org)>;  
Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>  
**Cc:** Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>  
**Subject:** RE: Juliana v. United States

Phil,

The Ninth Circuit mandate instructed the District Court to dismiss the complaint for lack of jurisdiction. It did not invite the Plaintiffs or the Court to dismiss or drop parties in a piece-meal fashion. Regardless of which rule Plaintiffs rely upon, additional motions practice is inconsistent with the mandate. We are always willing to extend professional courtesy, and enter into a stipulation where possible, but in this case, we cannot do so.

As for Rule 21, that rule applies to misjoinder and nonjoinder of parties. The Supreme Court and Ninth Circuit cases that you cite – *Newman-Green* and *Galt G/S* – both involved dismissal of dispensable parties whose joinder defeated diversity jurisdiction, not just parties that wished to no longer participate. So the dismissal in those cases fell within Rule 21's ambit.

Thank you,  
Sean

---

**Sean C. Duffy**  
U.S. DEPARTMENT OF JUSTICE  
Environment & Natural Resources Division | Natural Resources Section | Trial Attorney  
150 M Street NE | Washington, DC 20002 | Ph: (202) 305-0445 | Fax: (202) 305-0506

**From:** Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>  
**Sent:** Wednesday, May 26, 2021 1:53 PM  
**To:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>; Julia Olson <[julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org)>; Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>  
**Cc:** Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>  
**Subject:** RE: Juliana v. United States

Sean,

We wanted to ask for more information about your position on dropping Earth Guardians as a named plaintiff per Rule 21. While we understand your position as to dismissal of the action as that was articulated in your response brief on the motion to amend, we do not believe that position should preclude the voluntary dropping of Earth Guardians as a party at this stage in the litigation. The government would suffer no legal prejudice by dismissing Earth Guardians at this stage. The government conducted virtually no discovery as to Earth Guardians; no declarations have been submitted by Earth Guardians; the government now has no motions pending as to Earth Guardians; and the government has not spent any effort or expense of preparation for the case

going forward as to Earth Guardians. By a joint stipulation to drop Earth Guardians, the government would not have to spend any resources addressing a motion to drop Earth Guardians. Finally, the Court would not have to utilize resources addressing a motion to drop Earth Guardians if the only rationale offered by the government for not stipulating is that “procedurally it should be accomplished by the dismissal of all parties by the court in compliance with the Ninth Circuit mandate.” Such a rationale does not address dropping Earth Guardians, but instead goes to a completely different matter as to all of the claims by all plaintiffs, an issue that has been and will continue to be handled separately.

Our research indicates that Rule 21 allows the court “at any time, on just terms, [to] add or drop a party.” The Supreme Court has noted Rule 21 provides courts with the authority “to allow a dispensable nondiverse party to be dropped at any time, even after judgment has been rendered.” *Grupo Dataflux v. Atlas Global Group, L.P.*, 541 U.S. 567, 573 (2004) (citing *Newman-Green, Inc. v. Alfonzo-Larrain*, 490 U.S. 826, 832 (1989)); *Galt G/S v. JSS Scandinavia*, 142 F.3d 1150, 1154 (9th Cir. 1998) (“First, Rule 21 specifically allows for the dismissal of parties at any stage of the action.”). As the Tenth Circuit wrote: “Rule 21 allows the court to dismiss parties ‘on such terms as are just, thus granting considerable discretion to the district court.’” *Lenon v. St. Paul Mercury Ins. Co.*, 136 F.3d 1365, 1371 (10th Cir.1998), quoting *Jett v. Phillips and Associates*, 439 F.2d 987, 989-90 (10th Cir.1971). The Sixth Circuit also utilizes Rule 21 to dismiss a party. See, e.g., *Letherer v. Alger Grp., LLC*, 328 F.3d 262, 266 (6th Cir. 2003) (quoting *Philip Carey Mfg. Co. v. Taylor*, 286 F.2d 782, 785 (6th Cir. 1961)), overruled on other grounds by *Blackburn v. Oaktree Capital Mgmt., LLC*, 511 F.3d 633, 636 (6th Cir. 2008) (“Rule 41(a)(1) provides for the voluntary dismissal of an ‘action’ not a ‘claim’; the word ‘action’ as used in the Rules denotes the entire controversy, whereas ‘claim’ refers to what has traditionally been termed ‘cause of action.’ Rule 21 provides that ‘Parties may be dropped or added by order of the court on motion’ and we think that this rule is the one under which any action to eliminate . . . a party should be taken.”); *Miller v. Experian Info. Solutions, Inc.*, No. 3:13-cv-90, 2014 U.S. Dist. LEXIS 85054 (S.D. Ohio June 23, 2014) (construing stipulated dismissals under Rule 41(a)(1)(A) as motions under Rule 21 based on this logic because “[t]he Sixth Circuit has held [in *Philip Carey Mfg. Co.*] that Rule 21 is the proper vehicle for the dismissal of individual parties from the action, and Rule 41, conversely, is appropriate only for dismissal of the entire action”).

We continue to believe Rule 21 is the appropriate vehicle to drop Earth Guardians in this instance, but please let us know if you are aware of legal authority to the contrary. We renew our request that the government stipulate to dropping Earth Guardians out of professional courtesy and for the efficiency of the parties and the Court. I think it goes without saying, but we will not agree to a dismissal of the whole case, simply by seeking the professional courtesy of this stipulation from you.

Best,

Phil

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Email: [pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)  
Website: [gregorylawgroup.com](http://gregorylawgroup.com)

**From:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>  
**Sent:** Wednesday, May 19, 2021 8:11 AM  
**To:** Julia Olson <[julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org)>; Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>; Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>  
**Cc:** Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>  
**Subject:** RE: Juliana v. United States

Julia,

I wanted to get back to you on the outstanding issues from our call on Monday.

First, regarding Plaintiffs' proposed stipulation to drop Earth Guardians as a party, we do not agree that Rule 21 (which deals with misjoinder) is an appropriate vehicle to dismiss a party in this instance. Procedurally, dismissal of Earth Guardians should be accomplished by dismissal of all parties by the Court in compliance with the Ninth Circuit mandate. If Plaintiffs move to dismiss Earth Guardians, you can state that Defendants' position is that while the United States agrees that dismissal of Earth Guardians is appropriate, procedurally it should be accomplished by the dismissal of all parties by the court in compliance with the Ninth Circuit mandate.

Second, regarding a proposed extension of Plaintiffs' July 12 deadline for filing a petition for certiorari, it is the government's view that 150 days is the maximum time for filing a petition. In this circumstance, we generally take no position on an extension request. Plaintiffs are free to contact the clerk's office with any questions.

[THIS PORTION OF THE EMAIL HAS BEEN REDACTED AS IT ADDRESSES THE SETTLEMENT PROCESS.]

Thank you,  
Sean

---

**Sean C. Duffy**  
U.S. DEPARTMENT OF JUSTICE  
Environment & Natural Resources Division | Natural Resources Section | Trial Attorney  
150 M Street NE | Washington, DC 20002 | Ph: (202) 305-0445 | Fax: (202) 305-0506

[THE REMAINING EMAILS IN THIS STRING HAVE BEEN REDACTED AS THEY ADDRESS MATTERS INVOLVING SETTLEMENT.]

## Exhibit 3

**From:** Philip Gregory

**Sent:** Thursday, June 3, 2021 5:46 AM

**To:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>; Julia Olson <[julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org)>; Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>

**Cc:** Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>

**Subject:** RE: Juliana v. United States

Sean,

We understand your position and have added a new whereas clause to make clear the government's position. With this addition to the stipulation, will you please sign on behalf of the government to avoid the need for motion practice?

Thanks for your consideration,

---

Phil

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1250 Godetia Drive  
Redwood City, CA 94062-4163  
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**Sent:** Friday, May 28, 2021 1:37 PM

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**Cc:** Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>

**Subject:** RE: Juliana v. United States

Phil,

The Ninth Circuit mandate instructed the District Court to dismiss the complaint for lack of jurisdiction. It did not invite the Plaintiffs or the Court to dismiss or drop parties in a piece-meal fashion. Regardless of which rule Plaintiffs rely upon, additional motions practice is inconsistent with the mandate. We are always willing to extend professional courtesy, and enter into a stipulation where possible, but in this case, we cannot do so.

As for Rule 21, that rule applies to misjoinder and nonjoinder of parties. The Supreme Court and Ninth Circuit cases that you cite – *Newman-Green* and *Galt G/S* – both involved dismissal of dispensable parties whose joinder defeated diversity jurisdiction, not just parties that wished to no longer participate. So the dismissal in those cases fell within Rule 21's ambit.

Thank you,  
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**Sean C. Duffy**

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*Attorneys for Defendants*

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DISTRICT OF OREGON

**KELSEY CASCADIA ROSE JULIANA;**  
**XIUHTEZCATL TONATIUH M.,** through his  
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Defendants.

Case No.: 6:15-cv-01517-AA

**JOINT STIPULATION TO DROP  
ORGANIZATIONAL PLAINTIFF  
EARTH GUARDIANS; [Proposed]  
ORDER**

**Pursuant to Fed. R. Civ. P. 21**



### STIPULATION

WHEREAS, Plaintiffs and Defendants (collectively the “Parties”) have conferred and agreed upon this Joint Stipulation and [Proposed] Order;

WHEREAS, Plaintiffs requested Defendants stipulate that, pursuant to Federal Rule of Civil Procedure 21, plaintiff Earth Guardians, a 501(c)(3) non-profit organization, be dropped as a named plaintiff in the present action on the terms set forth herein and Defendants agreed to so stipulate;

WHEREAS, the remaining Plaintiffs will continue to prosecute their claims;

WHEREAS, the dropping of Earth Guardians as a named Plaintiff does not affect or implicate any of the prior judicial decisions or prior legal arguments of the Parties;

WHEREAS, the dropping of Earth Guardians as a named Plaintiff does not affect or implicate any of Plaintiffs’ claims going forward;

WHEREAS, the dropping of Earth Guardians as a named Plaintiff does not affect or implicate any of Defendants’ defenses going forward;

WHEREAS, it is the position of Defendants that, while the United States agrees dismissal of Earth Guardians is appropriate, procedurally dismissal of Earth Guardians should be accomplished by dismissal of all parties by the Court in compliance with the Ninth Circuit mandate. Defendants do not waive this position by agreeing to this Stipulation.

WHEREAS, this Court has the authority under Federal Rule of Civil Procedure 21 to “drop” a party from an action by court order “at any time, on just terms”;

THE PARTIES HEREBY JOINTLY STIPULATE AND AGREE THIS COURT SHOULD ISSUE AN ORDER THAT, pursuant to Federal Rule of Civil Procedure 21, Plaintiff EARTH GUARDIANS, a 501(c)(3) non-profit organization, is dropped from the present action as a named plaintiff effective immediately.

**STIPULATION TO DROP ORGANIZATIONAL PLAINTIFF; [Proposed] ORDER**

**6:15-cv-01517-AA**

Exhibit 3

2

4

DATED this ~~17th~~<sup>\*th</sup> day of ~~May~~<sup>June</sup>, 2021.

Respectfully submitted,

/s/ Julia A. Olson  
JULIA A. OLSON

*Attorney for Plaintiffs*

/s/ Sean C. Duffy  
SEAN C. DUFFY

*Attorney for Defendants*

**Attestation of Filing**

I hereby attest, pursuant to District of Oregon, Local Rule 11-1(b), that consent to the filing of this document has been obtained from each signatory hereto.

/s/ Julia A. Olson

Julia A. Olson

*Attorney for Plaintiffs*

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

**KELSEY CASCADIA ROSE JULIANA**; et al., Case No.: 6:15-cv-01517-AA

Plaintiffs,

[PROPOSED] **ORDER**

v.

**The UNITED STATES OF AMERICA**; et al.,

Defendants.

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The Court has reviewed the reasons offered in support of the JOINT STIPULATION TO DROP ORGANIZATIONAL PLAINTIFF EARTH GUARDIANS and finds there is good cause under Federal Rule of Civil Procedure 21 to drop Plaintiff EARTH GUARDIANS from this action.

THEREFORE, IT IS HEREBY ORDERED THAT, pursuant to Federal Rule of Civil Procedure 21, Plaintiff EARTH GUARDIANS, a 501(c)(3) non-profit organization, is dropped from the present action as a named Plaintiff effective immediately.

IT ALSO IS HEREBY ORDERED THAT the dropping of Plaintiff EARTH GUARDIANS as a named Plaintiff does not affect or implicate any of the prior judicial decisions or prior legal arguments of the Parties; any of Plaintiffs' claims going forward; and any of Defendants' defenses going forward.

DATED this \_\_\_\_ day of ~~May~~June, 2021.

---

ANN L. AIKEN  
United States District Judge

## Exhibit 4

**From:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>  
**Sent:** Monday, June 7, 2021 8:42 AM  
**To:** Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>; Julia Olson <[julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org)>;  
Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>  
**Cc:** Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>  
**Subject:** RE: Juliana v. United States

Phil,

Defendants cannot join the proposed stipulation. If Plaintiffs seek to dismiss (or drop) a party, it should be by motion. And as we indicated below, our position is that dismissal should be accomplished by the dismissal of all parties by the Court in compliance with the Ninth Circuit mandate.

---

Thank you,  
Sean

---

**Sean C. Duffy**  
U.S. DEPARTMENT OF JUSTICE  
Environment & Natural Resources Division | Natural Resources Section | Trial Attorney  
150 M Street NE | Washington, DC 20002 | Ph: (202) 305-0445 | Fax: (202) 305-0506

**From:** Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>  
**Sent:** Thursday, June 3, 2021 8:46 AM  
**To:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>; Julia Olson <[julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org)>; Andrea  
Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>  
**Cc:** Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>  
**Subject:** RE: Juliana v. United States

Sean,

We understand your position and have added a new whereas clause to make clear the government's position. With this addition to the stipulation, will you please sign on behalf of the government to avoid the need for motion practice?

Thanks for your consideration,

Phil

PHILIP L. GREGORY (SBN 95217)  
GREGORY LAW GROUP  
1250 Godetia Drive  
Redwood City, CA 94062-4163  
Tel: (650) 278-2957  
Email: [pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)  
Website: [gregorylawgroup.com](http://gregorylawgroup.com)

## Exhibit 5

**From:** Philip Gregory  
**Sent:** Friday, September 10, 2021 1:21 PM  
**To:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>  
**Cc:** [julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org); Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>; Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>  
**Subject:** Re: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Sean,

Let's do a call on Monday at 10 pacific. That way we are not rushed.  
Have a great weekend,

Phil

On Sep 10, 2021, at 12:12 PM, Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)> wrote:

Phil,

We can join a call at 4:30 ET today, but I have a hard stop at 5pm. If a call will take more than 30 minutes, we should schedule a call on Monday instead when both Frank and I have availability all day except for 2:30-3pm ET.

Thanks,  
Sean

---

<image001.jpg> **Sean C. Duffy**  
U.S. DEPARTMENT OF JUSTICE  
Environment & Natural Resources Division | Natural Resources Section | Trial Attorney  
150 M Street NE | Washington, DC 20002 | Ph: (202) 305-0445 | Fax: (202) 305-0506

**From:** Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>  
**Sent:** Friday, September 10, 2021 2:10 PM  
**To:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>; [julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org); Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>  
**Cc:** Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>  
**Subject:** RE: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Sean,



Defendants failed to confer with us as required by the Local Rules. We were prepared to engage on a conference call. As a result, Defendants need to correct their filing immediately.

Further, we do not understand how a conferral over our proposed stipulation in May to resolve this issue counts as conferral on the motion Defendants now bring. Defendants never suggested edits to our proposed stipulation. In fact, if you review your prior emails, Defendants refused to agree to *any* stipulation except for a stipulation that dismissed the whole case. We are open to revisiting the stipulation we had proposed and conferring by phone if this can be resolved without motion practice.

Finally, your email fails to explain why Defendants rushed to file this “administrative” motion. Can you please explain the urgency?

To reiterate, we are prepared to confer by phone, we are (and have been) prepared to enter into a stipulation concerning the withdrawal of Earth Guardians as a plaintiff, and we strongly request that you amend your motion on the issue of meeting and conferring.

We are available for a call after 1:30 PT today. If that time frame does not work, please propose times on Monday.

Phil, Julia, and Andrea

**From:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>

**Sent:** Friday, September 10, 2021 9:58 AM

**To:** Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>; [julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org); Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>

**Cc:** Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>

**Subject:** RE: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Phil,

I reviewed our emails and apologize that I did not include the time zone for a proposed discussion yesterday. We meant to open up our line at 5:45 ET, shortly after you sent your email at 5:20. Frank and I did get on the call at 5:45 and stayed on for 15 minutes, but closed the line after no one joined. The parties previously conferred on May 17 on Plaintiffs’ proposal to stipulate to drop Earth Guardians from the lawsuit. We do not see our motion to require additional conferral, since we stated our position then. We did, however, offer to have a further call in my September 8 e-mail, if you felt that it was necessary. We understood your September 9 response—stating that Plaintiffs would confer telephonically *after* we provided a draft of our motion—as refusing our conferral request of September 8, as we had already explained that we cannot share draft motions. I trust that clears up any confusion.

We do not think further conferral is going to resolve the narrow question raised in the motion regarding the need for a judgment against Earth Guardians. But please let us know if you feel differently.

Thank you,  
Sean

---

<image001.jpg>**Sean C. Duffy**

U.S. DEPARTMENT OF JUSTICE  
Environment & Natural Resources Division | Natural Resources Section | Trial Attorney  
150 M Street NE | Washington, DC 20002 | Ph: (202) 305-0445 | Fax: (202) 305-0506

**From:** Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>  
**Sent:** Thursday, September 9, 2021 7:20 PM  
**To:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>; [julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org);  
Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>  
**Cc:** Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>  
**Subject:** RE: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Sean,

It is 4:20 pm right now. You wrote you were opening your conference line at 5:45, but instead you filed your motion minutes after sending your email about the conference line before we had a chance to talk internally and respond to your proposed time for a call, and without giving us a meaningful chance to confer. In doing so you grossly misrepresented our position to the court by saying: "Plaintiffs refused telephonic conferral unless the United States first provided a copy of the motion." We said we could have a phone call tomorrow, because we already have a pre-scheduled call this evening and are not available today.

We ask that you correct your statement to the court about our position and properly complete the conferral process, which might have avoided the need for this motion.

We would like to confer tomorrow between 10-11:30 a.m. PT.

What is the urgency that necessitated you filing prior to completing conferral?

Phil, Julia, and Andrea

**From:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>  
**Sent:** Thursday, September 9, 2021 2:42 PM  
**To:** Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>; [julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org);

Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>

**Cc:** Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>

**Subject:** RE: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Phil,

If Plaintiff would like to confer on the motion, we are opening our conference line up at 5:45 so that we can confer. The dial in information is:

Dial in: 866-410-9426

Passcode: 2661207

Thank you,

Sean

---

<image001.jpg>**Sean C. Duffy**

U.S. DEPARTMENT OF JUSTICE

Environment & Natural Resources Division | Natural Resources Section | Trial Attorney  
150 M Street NE | Washington, DC 20002 | Ph: (202) 305-0445 | Fax: (202) 305-0506

**From:** Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>

**Sent:** Thursday, September 9, 2021 5:21 PM

**To:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>; [julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org);

Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>

**Cc:** Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>

**Subject:** RE: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Sean,

Your response does not comply with the Local Rules, the relevant portions of which I have pasted below.

Defendants have not made a good faith effort through personal or telephone conferences to resolve the dispute.

We will object to the motion on that basis.

Further, you have previously requested copies of our proposed filings before taking a position on a motion and we have provided you with those copies.

For example, see your email of March 7, 2021 ("In addition, prior to any conferral, we will need to see the proposed amendment to the complaint.")

If the matter is "a short motion" and you have it ready to file, we see no reason why you cannot provide us with a copy in advance for our review and give us the opportunity to discuss any concerns in a telephone conference, as required under the local rules.

Can you please provide us with a draft of the document you intend to file so we can review it as part of the conferral process?

After you send the draft, we will then be prepared for a phone call tomorrow. There is absolutely no urgency to filing this motion today if it is truly "an administrative matter." Best,

Phil, Julia, and Andrea

LR 7-1 Motions Practice - Generally

(a) Certification Requirements

Except for motions for temporary restraining orders, the first paragraph of every motion must certify that:

In compliance with this Rule, the parties made a good faith effort through personal or telephone conferences to resolve the dispute and have been unable to do so; or

The opposing party willfully refused to confer; or

The moving party or opposing party is a prisoner not represented by counsel.

**From:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>

**Sent:** Thursday, September 9, 2021 1:38 PM

**To:** Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>; [julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org); Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>

**Cc:** Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>

**Subject:** RE: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Hi Phil,

I hope everyone is coping as best as possible with the wildfires and associated conditions.

While we do not circulate drafts as part of the conferral process, our motion is a short motion seeking entry of judgment and dismissal against Earth Guardians under Fed. R. Civ. P. 54(b) and 58 based on its decision not to join Plaintiffs' efforts to amend the complaint and the Ninth Circuit decision.

We intend to file before close of business PT today, but if you want to discuss beforehand I can be available times other than 2:15-2:45 PT today.

Thanks,  
Sean

<image001.jpg>**Sean C. Duffy**

U.S. DEPARTMENT OF JUSTICE  
Environment & Natural Resources Division | Natural Resources Section | Trial Attorney  
150 M Street NE | Washington, DC 20002 | Ph: (202) 305-0445 | Fax: (202) 305-0506

**From:** Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>  
**Sent:** Thursday, September 9, 2021 3:58 PM  
**To:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>; [julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org);  
Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>  
**Cc:** Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>  
**Subject:** RE: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Thanks for your email, Sean.

We are in various ways dealing with wildfire smoke. Difficult now to be in the West during this new climate-fire season.

In response to your question, can you please send us a draft of the document you intend to file?

Once we have had an opportunity to review, we may want to confer by phone before you file.

Best,

Phil, Julia, and Andrea

**From:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>  
**Sent:** Wednesday, September 8, 2021 11:13 AM  
**To:** [julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org); Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>;  
Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>  
**Cc:** Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>  
**Subject:** Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Julia, Phil, and Andrea –

I hope all is well. We plan to bring a short motion for entry of judgment against Plaintiff Earth Guardians. As you'll recall, we previously discussed dropping Earth Guardians from the case. Since that time, Plaintiffs filed a revised Second Amended Complaint that deletes all references to Earth Guardians. We see the proposed motion as an administrative matter that should close the loop on this issue. Please let us know if Plaintiffs consent to the motion or if you would like to have a call to discuss this.

Thank you,

Sean

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<image001.jpg>**Sean C. Duffy**

U.S. DEPARTMENT OF JUSTICE

Environment & Natural Resources Division | Natural Resources Section | Trial Attorney

150 M Street NE | Washington, DC 20002 | Ph: (202) 305-0445 | Fax: (202) 305-0506

## Exhibit 6

**From:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>  
**Sent:** Thursday, September 16, 2021 1:54 PM  
**To:** Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>  
**Cc:** [julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org); Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>; Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>  
**Subject:** RE: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Hi Phil,

I do have an update. Please see the attached proposed stipulation, for Plaintiffs' review.

Thanks,  
Sean

---

**Sean C. Duffy**

U.S. DEPARTMENT OF JUSTICE  
Environment & Natural Resources Division | Natural Resources Section | Trial Attorney  
150 M Street NE | Washington, DC 20002 | Ph: (202) 305-0445 | Fax: (202) 305-0506

**From:** Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>  
**Sent:** Thursday, September 16, 2021 4:46 PM  
**To:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>  
**Cc:** [julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org); Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>; Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>  
**Subject:** [EXTERNAL] Re: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Sean,

Any update on timing?  
Thanks,

Phil

On Sep 15, 2021, at 12:01 PM, Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)> wrote:

Phil,



I sent a follow-up email to my supervisor this morning, who is aware of that Plaintiffs are waiting for a draft stipulation. I also noted the 14-day response deadline for motions. I'll let you know when I hear back.

Thank you,  
Sean

---

<image001.jpg>**Sean C. Duffy**  
U.S. DEPARTMENT OF JUSTICE  
Environment & Natural Resources Division | Natural Resources Section | Trial Attorney  
150 M Street NE | Washington, DC 20002 | Ph: (202) 305-0445 | Fax: (202) 305-0506

**From:** Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>  
**Sent:** Wednesday, September 15, 2021 2:35 PM  
**To:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>  
**Cc:** [julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org); Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>; Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>  
**Subject:** RE: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Sean,  
Any update on timing?  
Thanks,  
Phil

**From:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>  
**Sent:** Tuesday, September 14, 2021 1:12 PM  
**To:** Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>  
**Cc:** [julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org); Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>; Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>  
**Subject:** RE: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Phil,

I sent the stipulation over to our management for review and we're waiting to hear back. We just sent an inquiry over today. I'll let you know as soon as we hear back.

Thank you,  
Sean

<image001.jpg>**Sean C. Duffy**

U.S. DEPARTMENT OF JUSTICE

Environment & Natural Resources Division | Natural Resources Section | Trial Attorney  
150 M Street NE | Washington, DC 20002 | Ph: (202) 305-0445 | Fax: (202) 305-0506

**From:** Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>

**Sent:** Tuesday, September 14, 2021 2:16 PM

**To:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>

**Cc:** [julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org); Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>;  
Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>

**Subject:** RE: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Hi Sean,

Where do we stand on the draft stipulation discussed yesterday?

Thanks,

Phil

**From:** Philip Gregory

**Sent:** Friday, September 10, 2021 1:21 PM

**To:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>

**Cc:** [julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org); Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>;  
Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>

**Subject:** Re: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Sean,

Let's do a call on Monday at 10 pacific. That way we are not rushed.

Have a great weekend,

Phil

TODD KIM  
Assistant Attorney General

SEAN C. DUFFY (NY Bar No. 4103131)  
FRANK J. SINGER (CA Bar No. 227459)  
Trial Attorneys  
United States Department of Justice  
Environment & Natural Resources Division  
Natural Resources Section  
150 M Street NE  
Washington, DC 20002  
Tel: (202) 305-0445; Fax: (202) 305-0506  
[sean.c.duffy@usdoj.gov](mailto:sean.c.duffy@usdoj.gov)

*Attorneys for Defendants*

**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION**

**KELSEY CASCADIA ROSE JULIANA, et al.,** Case No. 6:15-cv-01517-AA  
Plaintiffs,

v.

**UNITED STATES OF AMERICA, et al.,**  
Defendants.

**STIPULATION OF DISMISSAL OF  
PLAINTIFF EARTH GUARDIANS' CLAIMS**

Pursuant to the Ninth Circuit's March 5, 2021 mandate, ECF No. 461, the Parties stipulate to dismiss the claims brought by Plaintiff Earth Guardians.

Respectfully submitted: **September \_\_, 2021**

**/s/ DRAFT**

JULIA A. OLSON (OR Bar 062230)  
[julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org)

TODD KIM  
Assistant Attorney General  
United States Department of Justice

**/s/ DRAFT**

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## Exhibit 7

**From:** Julia Olson <[julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org)>  
**Sent:** Friday, September 17, 2021 12:27 PM  
**To:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>  
**Cc:** Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>; Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>; Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>  
**Subject:** Re: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Thanks for sending this, Sean.

Here are our proposed edits to the stipulation.

Thanks,  
Julia

On Sep 16, 2021, at 1:53 PM, Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)> wrote:

Hi Phil,

I do have an update. Please see the attached proposed stipulation, for Plaintiffs' review.

Thanks,  
Sean

---

<image001.jpg>**Sean C. Duffy**

U.S. DEPARTMENT OF JUSTICE

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*Attorneys for Defendants*

**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION**

**KELSEY CASCADIA ROSE JULIANA, et al.,** Case No. 6:15-cv-01517-AA  
Plaintiffs,

v.

**UNITED STATES OF AMERICA, et al.,**  
Defendants.

**STIPULATION OF ~~WITHDRAWAL OF~~ DISMISSAL OF  
PLAINTIFF EARTH GUARDIANS' CLAIMS**

The Parties stipulate to the withdrawal of Earth Guardians as a plaintiff from this litigation and to the dismissal without prejudice of the claims brought by Plaintiff Earth Guardians.

Pursuant to the Ninth Circuit's March 5, 2021 mandate, ECF No. 461, the Parties stipulate to dismiss the claims brought by Plaintiff Earth Guardians.—

Respectfully submitted: **September \_\_, 2021**

/s/ DRAFT

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/s/ DRAFT *Duffy*

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/s/ Sean C. Duffy  
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*Attorneys for Defendants*



## Exhibit 8

**From:** Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>  
**Sent:** Monday, September 20, 2021 2:18 PM  
**To:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>  
**Cc:** Julia Olson <[julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org)>; Philip Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>; Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>  
**Subject:** Re: [EXTERNAL] Re: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Hi Sean-

We believe the attached edits to what we sent earlier addresses the concern you initially raised. We disagree that we have adequately conferred on this issue because we think you are missing an important point. It is not legally or factually accurate to say that Earth Guardians is being dismissed because of the mandate. They are voluntarily dropping out as plaintiffs and not joining the second amended complaint. When a party voluntarily agrees to dismiss their claims, they should be able to do that. We are happy to get on the phone and explain in greater details the reasons why Earth Guardians is not joining the second amended complaint if that would be helpful. We don't think the conferral to date is adequate if you are not clear on why Earth Guardians is not joining the second amended complaint.

Please let us know if the attached edits are acceptable. Thanks,

**Andrea Rodgers**  
Senior Litigation Attorney  
she/her/hers  
206-696-2851

Our Children's Trust  
P.O. Box 5181  
Eugene, OR 97405  
O: 541-375-0158



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On Sep 20, 2021, at 1:59 PM, Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)> wrote:

Julia,

Our proposal is to “dismiss the claims brought by Earth Guardians pursuant to the Ninth Circuit’s mandate.” That is the formulation we are comfortable with. If you can agree with that, we will be happy to file the stipulation. Otherwise, we have more than adequately conferred on the United States’ motion and our next step should be for Plaintiffs to file their response.

Thank you,  
Sean

---

<image001.jpg>**Sean C. Duffy**  
U.S. DEPARTMENT OF JUSTICE  
Environment & Natural Resources Division | Natural Resources Section | Trial Attorney  
150 M Street NE | Washington, DC 20002 | Ph: (202) 305-0445 | Fax: (202) 305-0506

**From:** Julia Olson <[julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org)>  
**Sent:** Monday, September 20, 2021 1:47 PM  
**To:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>  
**Cc:** Phil Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>; Andrea Rodgers <[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>; Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>  
**Subject:** Re: [EXTERNAL] Re: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Hi Sean,

You write below "If Plaintiffs do not agree to dismiss the claims brought by Earth Guardians..." Our proposed draft stipulation says explicitly that it dismisses the claims brought by Earth Guardians without prejudice, which is the appropriate form of dismissal at this jurisdictional stage of the case. We *do* agree to dismiss their claims and drop them as a plaintiff. It sounds like we are in agreement.

Can you please explain what you see as the problem?

Thanks,  
Julia

On Sep 20, 2021, at 9:43 AM, Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)> wrote:

Julia,

Thank you for passing along Plaintiffs' counter-proposal. We have reviewed it and do not think Plaintiffs' proposal to withdraw Earth Guardians accomplishes the same thing as the stipulation of dismissal that we proposed. If Plaintiffs do not agree to dismiss the claims brought by Earth Guardians, we think it makes sense for the parties to address the status of Earth Guardians through the pending motion for entry of judgment (ECF 516).

Thank you,  
Sean

---

<image001.jpg>**Sean C. Duffy**

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**From:** Julia Olson <[julia@ourchildrenstrust.org](mailto:julia@ourchildrenstrust.org)>

**Sent:** Friday, September 17, 2021 3:27 PM

**To:** Duffy, Sean C. (ENRD) <[Sean.C.Duffy@usdoj.gov](mailto:Sean.C.Duffy@usdoj.gov)>

**Cc:** Phil Gregory <[pgregory@gregorylawgroup.com](mailto:pgregory@gregorylawgroup.com)>; Andrea Rodgers

<[andrea@ourchildrenstrust.org](mailto:andrea@ourchildrenstrust.org)>; Singer, Frank (ENRD) <[Frank.Singer@usdoj.gov](mailto:Frank.Singer@usdoj.gov)>

**Subject:** [EXTERNAL] Re: Juliana v. United States (D. Or.), No. 6:15-cv-1517 -- EG Entry of Judgment Motion

Thanks for sending this, Sean.

Here are our proposed edits to the stipulation.

Thanks,  
Julia

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*Attorneys for Defendants*

UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

**KELSEY CASCADIA ROSE JULIANA;**  
**XIUHTEZCATL TONATIUH M.,** through his  
Guardian Tamara Roske-Martinez; et al.,

Plaintiffs,

v.

**The UNITED STATES OF AMERICA;** et al.,

Defendants.

Case No.: 6:15-cv-01517-AA

**JOINT STIPULATION TO DROP  
ORGANIZATIONAL PLAINTIFF  
EARTH GUARDIANS; [Proposed]  
ORDER**

**Pursuant to Fed. R. Civ. P. 21**

### STIPULATION

WHEREAS, Plaintiffs and Defendants (collectively the “Parties”) have conferred and agreed upon this Joint Stipulation and [Proposed] Order;

WHEREAS, Defendants moved this Court for entry of judgment against Plaintiff Earth Guardians, pursuant to Federal Rules of Civil Procedure 54(b) and 58 (ECF No. 516);

WHEREAS, Plaintiffs requested Defendants stipulate that, pursuant to Federal Rule of Civil Procedure 21, Earth Guardians be dropped as a plaintiff and Defendants so stipulated;

WHEREAS, the dropping of Earth Guardians as a named Plaintiff does not affect or implicate (1) any of the prior judicial decisions or prior legal arguments of the Parties, and (2) any of the claims of the remaining Plaintiffs;

WHEREAS, the dropping of Earth Guardians as a named Plaintiff does not affect or implicate any of Defendants’ defenses going forward;

WHEREAS, this Court has the authority under Federal Rule of Civil Procedure 21 to “drop” a party from an action by court order “at any time, on just terms”;

THE PARTIES HEREBY STIPULATE AND AGREE THIS COURT SHOULD ISSUE AN ORDER THAT, pursuant to Federal Rule of Civil Procedure 21, Plaintiff EARTH GUARDIANS is dropped from the present action as a named plaintiff effective immediately [and the claims brought by Earth Guardians are hereby dismissed without prejudice.](#)

DATED this \*th day of September, 2021.

Respectfully submitted,

/s/ Julia A. Olson  
JULIA A. OLSON

*Attorney for Plaintiffs*

/s/ Sean C. Duffy  
SEAN C. DUFFY

*Attorney for Defendants*

**STIPULATION TO DROP ORGANIZATIONAL PLAINTIFF; [Proposed] ORDER**

3

**6:15-cv-01517-AA**

Exhibit 8

6

**Attestation of Filing**

I hereby attest, pursuant to District of Oregon, Local Rule 11-1(b), that consent to the filing of this document has been obtained from each signatory hereto.

/s/ Julia A. Olson

Julia A. Olson

*Attorney for Plaintiffs*



UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON

**KELSEY CASCADIA ROSE JULIANA**; et al., Case No.: 6:15-cv-01517-AA

Plaintiffs,

[PROPOSED] **ORDER**

v.

**The UNITED STATES OF AMERICA**; et al.,

Defendants.

---

The Court has reviewed the reasons offered in support of the JOINT STIPULATION TO DROP ORGANIZATIONAL PLAINTIFF EARTH GUARDIANS and finds there is good cause under Federal Rule of Civil Procedure 21 to drop Plaintiff EARTH GUARDIANS from this action.

THEREFORE, IT IS HEREBY ORDERED THAT, pursuant to Federal Rule of Civil Procedure 21, Plaintiff EARTH GUARDIANS, a 501(c)(3) non-profit organization, is dropped from the present action as a named Plaintiff effective immediately.

IT ALSO IS HEREBY ORDERED THAT the dropping of Plaintiff EARTH GUARDIANS as a named Plaintiff does not affect or implicate any of the prior judicial decisions or prior legal arguments of the Parties; any of Plaintiffs' claims going forward; and any of Defendants' defenses going forward.

DATED this \_\_\_\_ day of September, 2021.

---

ANN L. AIKEN  
United States District Judge